



3 1761 11649703 3

CA20N

Z 1

-80A021

COVA PUBNO





ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY  
ARISING FROM THE USE OF ASBESTOS IN ONTARIO

CHAIRMAN: J. STEFAN DUPRE, Ph.D.

COMMISSIONERS: J. FRASER MUSTARD, M.D.

ROBERT UFFEN, Ph.D., P.Eng., F.R.S.C.

COUNSEL: JOHN I. LASKIN, LL.B.

APPEARANCES:

Mr. M. Edwards

Government of Ontario

Mr. D. Starkman

Asbestos Victims

Mr. N. McCombie

Injured Workers Consultants

180 Dundas Street  
Toronto, Ontario  
Monday,  
July 19, 1982  
VOLUME 52



Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

<https://archive.org/details/31761116497033>

ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY

ARISING FROM THE USE OF ASBESTOS IN ONTARIO

VOLUME 52

INDEX OF WITNESSES:

WILLIAM DOUGLAS PEARCE

Examination-in-chief

Page 3

180 Dundas Street  
Toronto, Ontario  
Monday,  
July 19, 1982





180 Dundas Street  
Toronto, Ontario  
Monday,  
July 19, 1982  
9:00 a.m.  
VOLUME 52

THE FURTHER PROCEEDINGS OF THIS INQUIRY  
RESUMED PURSUANT TO ADJOURNMENT

APPEARANCES AS HERETOFORE NOTED

DR. DUPRE: May we come to order, please? This morning the Commission welcomes Mr. William Pearce, of the vocational rehabilitation services division of the Workmen's Compensation Board.

May I ask the witness to come forward and be sworn, please?

WILLIAM DOUGLAS PEARCE, SWORN

EXAMINATION-IN-CHIEF BY MR. LASKIN

DR. DUPRE: Proceed, counsel.

MR. LASKIN: Thank you, Mr. Chairman.

MR. LASKIN: Q. Mr. Pearce, you are employed by the Workmen's Compensation Board?

THE WITNESS: A. That is correct.

Q. In what capacity?

A. Rehabilitation specialist.

Q. How long have you held that position?

A. I was promoted to that position in May of 1978.





A. (cont'd. ) Formerly I had held a position as a senior rehabilitation counsellor.

Q. How long have you been employed by the Board?

A. I returned to the Board's employ on the first of March, 1967. I had prior service with the Board for the period June, 1956 to December 15th, 1961.

Q. And during that period of time what position did you hold with the Board?

A. As a rehabilitation counsellor.

Q. During the period June, 1956, to 1961?

A. That's correct.

Q. And then I take it you left the Board for a period of time?

A. Yes, I did.

Q. Where did you go?

A. I proceeded to the Toronto East General Hospital, where I was employed as a rehabilitation specialist under the direct supervision of Dr. C.M. Godfrey, who is a well-known physiotrist.

I was with the Toronto East General Hospital for approximately two years, and then I joined the Ministry of Health and entered the field of mental health program in the field of tuberculosis.

I was stationed in Kingston, and promoted to a position of supervisor of the rehabilitation unit there.

Following a period of some three years, I transferred to the Ontario Probation Service. I got into correctional work, and that took me up to the time that I returned to the Board's employ.

Q. All right. And when you returned to the Board's employ, did you return as a rehabilitation officer?

A. Yes. Consideration was given to my prior service



A. (cont'd.) and the experience that I had gained, so I must say I was made a very attractive offer on my return.

Q. Ultimately, in 1978, you were promoted to your present position?

A. That is correct.

Q. What is your professional background and your training?

A. Well, I am a member of the Canadian Association of Rehabilitation Personnel. I received accreditation with the said association which entitles me to the use of the term Accredited Rehabilitation Worker.

I have a certificate in rehabilitation counselling that was awarded me by attendance at Seneca College.

Q. Do you have any university training?

A. No.

Q. Do you have any other formal training other than what you have just told us about?

A. Apart from attending workshops, seminars, from time to time throughout the term of my duty in this field, I have amassed, I would say, some thirty-two years in the field of rehabilitation.

I became very keenly interested in this field at the cessation of hostilities, World War II, when at that time I was sent overseas. I was at that time employed by the federal department of immigration, and I was sent overseas as a visa officer, and attached to the International Refugee Organization camps, and having been a spectacle to and witnessed the misery and suffering, that was, I think, the turning point in my life which aroused in me a great feeling that I wanted to get into rehabilitation work.

Q. Fair enough.

In respect of your work at the WCB, and your knowledge





5 Q. (cont'd.) of the programs of the WCB, can I ask you was there any rehabilitation program involving industrial disease, prior to the program at Elliott Lake?

A. To my knowledge, no.

Q. So that Elliott Lake was the first rehabilitation program involving disease as opposed to accident or...?

A. If we are talking specifically in industrial disease. Do I understand the question exactly?

10 Q. Yes.

A. Yes, indeed. We refer to the Elliott Lake program as our pilot program in that field.

Q. Were you personally involved with that program?

A. Yes, I was.

15 Q. In what capacity?

A. I was asked to go to Elliott Lake in the early part of 1976. At that particular stage I accepted this quite willingly. It was my understanding it would be of somewhat short duration.

20 As I say, at the initial stages it was concluded that I would probably be only there a matter of six weeks, since we did have an office in Sudbury and matters pertinent to Elliott Lake would automatically fall within the jurisdiction of that particular office.

25 However, having arrived there and seen what we precisely had to be involved, in following several consultations with my superiors, it was deemed that it would be advisable if I remained on. So my six week period was greatly expanded into eighteen months.

Q. Was it you who had the direct contact with the employees who were eligible for the program?

A. Following a team interview, yes.

30 Q. I see.





A. May I explain my terminology 'team interview'?

5 It was our practice to interview those miners who, in our opinion, would qualify for entry to the program through the team concept. A team was made up of Dr. Stewart, Mr. Ray Rantor as supervisor, industrial disease, dependent section, and myself.

Q. This is at Elliott Lake?

A. At Elliott Lake.

10 Q. Having done the interviews, were you then generally responsible for the followup?

A. Indeed. Following the interviews...and bear in mind we commenced these interviews in December of 1975, and then we carried forth again through February, March, April and May of 1976.

15 In the interim period, I certainly devoted a great deal of my time to researching the entire subject matter, becoming completely familiar with the management structure of both mines, and then it became a question then, following these interviews, of then conducting further interviews with the miners concerned, on a one-to-one basis, with a view of determining if sufficient passage of time had been involved to enable them to come to a decision as to their intent in participating in the program.

20 Q. Now, I take it that the program at Johns-Manville was the second effort of the rehabilitation staff at the WCB, in the industrial disease field?

A. Yes, that is correct.

25 Q. Was that program initially aimed only at employees of Johns-Manville?

A. Yes. At the beginning the announcement made by the Ministry of Labour - the Honorable Bette Stephenson at that time - did make specific reference to a special rehabilitation

30



A. (cont'd.) assistance program for asbestos workers at the Johns-Manville plant at West Hill.

5 Q. Did you contemplate the same basic approach as you had initiated at Elliott Lake?

A. Yes. We felt that through the experiences gained at Elliott Lake that we could formulate identically the same, or similar, type of program, hopefully with the same margin of success, with the Johns-Manville plant.

10 Q. Was there a team, the same team?

A. The same team.

Q. Were you again responsible for the followup?

A. Yes, indeed.

15 Q. Okay. Now, I just want to understand a few particulars of the J-M program, and the first thing I just want to make clear in my mind is the eligibility criteria for the program.

20 I take it from the evidence we have heard, and from reading Professor Barth's study, that to be eligible for the program an employee had to be in the transite pipe section of that Scarborough plant as at May, 1976, the initiation...the starting point of the program? Is that correct?

A. Transite pipe, the entire transite pipe manufacturing area was deemed, at that time, to fall within the terms of reference - a hazardous work area.

25 In addition to transite pipe, we took in the erection and repair division. This particular division housed all the trades people at the plant, and since a great portion of their time and duty was spent in the transite pipe production areas on maintenance repair work, we felt they should also be included in that group.

30 Q. Okay. So we have transite pipe employees, erection and repair employees, and am I correct that to be





5 Q. (cont'd.) eligible for the program you had to be employed in one of those two sections as at the starting date of the program, which I understand was May 13, 1976?

A. That is correct.

10 The reason for it, again, our program was remedial by intent. The prime purpose of the program was, of course, to remove the worker from risk where risk had been ascertained, and since we had defined that these two work areas would comprise a risk area, that certainly then was one of the requirements for entry.

15 Q. So that...just so that I'm clear and you have stated the purpose of the program...if you had an employee, for example, that had arguably a ten percent disability rating for asbestosis, but was working not in the transite pipe section or in the erection and maintenance section as at May, 1976, that particular employee would not be eligible for your program?

A. Not for the special rehabilitation assistance program.

20 Q. Not for the special rehabilitation assistance program. In other words, you weren't looking back behind May, 1976. What you were looking for was the risk of future exposure to asbestos?

25 A. We concluded that March 13, 1976 (sic) was our, to coin a cliché if you wish, our jumping off or starting point. Therefore, we weren't going beyond that date.

Q. You weren't going back behind that date?

A. Behind that date. I beg your pardon.

So that March 13, 1976 (sic) was the starting point in time.

30 Q. All right. Can we just perhaps delve into this a little more deeply, and it might help if we looked at the statistical table which is found in two places - at page





5 Q. (cont'd.) sixty-three of the Board's own brief, and also at page eight point nine of Professor Barth's study.

Now, can I ask you, did you have any responsibility for preparing what is table nineteen in Professor Barth's study?

A. Yes, I did.

Q. Did you actually prepare the table?

10 A. I am the author of this report.

Q. You are the author of the table? All right. Good

What does the eighty represent? Is that the number of employees in the transite pipe section and the E and R section as at May, 1976?

15 A. No. The figure eighty, so given, was to convey that that was the precise number of both asbestotics and AFDE cases that the team interviewed preparatory for admission to the program.

Q. Did you interview all of the employees in the transite pipe section and the E and R section as at May, 1976?

20 A. No, only those who were in that section. The only ones of that group who were in that section would be those so-certified asbestotic or AFDE.

DR. DUPRE: So the eighty is the total number eligible to be interviewed?

THE WITNESS: That's correct, sir.

25 DR. DUPRE: And you had found, as I would understand it therefore, eighty individuals who were either certified asbestotics or met the AFDE guideline, correct?

THE WITNESS: Mmm-hmm.

30 DR. DUPRE: And who on top of this, as of March (sic) 13, 1976, were employed either in the transite pipe area or in the erection and maintenance section?

THE WITNESS: That's correct.



MR. LASKIN: Q. May, 1976?

THE WITNESS: A. May 13, 1976. Yes.

DR. DUPRE: Oh, it's May 13th, not March 13th?

Sorry.

MR. LASKIN: Q. Then...you have Professor Barth's table in front of you?

THE WITNESS: A. Yes, I do.

Q. So that if we go to B, I take it that what we see there is that you interviewed sixty-seven...your team interviewed sixty-seven of the eighty, is that right?

A. Yes, that is correct.

Q. What happened to the other thirteen? Why did they not get an interview?

A. Because I included there, in my statistical return of that group of thirteen, four had since passed away, we had what I had termed there no-shows...I note the use of the term no-shows...I meant they did not appear at the designated time set for interviews. We did, however, pick those up again on repeat interviews at a much later date.

Q. When you say a much later date, you mean past December 31, 1980?

A. Yes.

Q. I see.

So that...

DR. DUPRE: So there are the thirteen, being the sum of four deceased plus nine, all of whom were picked up by interviews after December 31, 1980, or some, or...?

THE WITNESS: Of that group of nine, there...what I'm trying to convey here to the Commission is that we did initially see those nine remaining people, at a much later date, following the preparation of this particular report.

We have since picked up several of those, yes.





DR. DUPRE: Oh, but not all nine?

THE WITNESS: Not all nine, no.

5 DR. DUPRE: Okay. Do you know how many you have  
picked up?

THE WITNESS: Six.

10 DR. DUPRE: Okay. So the thirteen, then, is  
equal to four deceased, as of December 31, 1980, plus six  
interviewed after December 31, correct?

THE WITNESS: Correct.

DR. DUPRE: Plus three who remain no-shows?

THE WITNESS: Well, no. Excuse me. The three  
that I...was I correct in you saying three no-shows?

15 DR. DUPRE: Well, four plus six is ten. I was  
just wondering if there were three who remained no-shows...?

THE WITNESS: We would have to, I suppose,  
categorically speaking, remove those three no-shows now into a  
new category whereby they elected to remain with the company.  
They felt they did not wish to participate in the program.

20 DR. DUPRE: Oh, so they are not really no-shows.  
They are three who decided not to participate?

THE WITNESS: As we are speaking today, sir. Yes.

DR. DUPRE: All right. Okay.

So the thirteen is equal to four deceased, plus  
six who were interviewed after December 31, 1980?

THE WITNESS: That's correct.

25 DR. DUPRE: Plus three who decided not to participate  
in the program?

THE WITNESS: Right.

30 DR. DUPRE: Now, does that mean that the six who  
were interviewed, that all of them after the interview decided to  
participate in the program?

THE WITNESS: Yes, that is correct.



5 MR. LASKIN: Q. I think we are going to want you...or I am certainly going to want you, Mr. Pearce, to update your statistics to the last date that you can possibly update them to, and perhaps we can get to that or indeed go through these tables again with a current itemization, if you are able to do that.

Will you be able to do that?

10 THE WITNESS: A. Yes, indeed. Indeed, I will. Certainly that will be made available for the Commission's use.

Q. The four who were deceased, do I take it they died between May 13, 1976, and December 31, 1980?

A. Yes.

15 Q. Can I ask you this - it doesn't appear on the table - but do you have any age distribution statistics on the eighty who were eligible for the program?

In other words, are you able to tell us how many of those were over sixty years of age, or how many were between fifty-five and sixty?

20 A. I did some preparation in that particular field. Again, I must apologize. I don't have those precise figures with me. I would certainly try and draw from memory, which would be somewhat a difficult task.

But I could certainly...

Q. Can you make those available?

A. ...make those available as well.

25 Q. All right. Okay.

Then, coming down to category C, table C, eighteen electing to participate. And I take it that means eighteen agreed to go on this program?

A. Eighteen of the total eighty.

30 Q. Right.

Sixteen undecided, what does that mean? That throughout this period these sixteen people could not make up





Q. (cont'd.) their minds as to whether they wanted to be on the program?

5 A. Yes. Going back in time when we started our first team interviews, where the complete outline was provided to workers so affected, in June of 1976, the question arose at that point in time, 'is there any time specified whereby a worker would have to render a firm or formal decision', and our response to that question was, since we concluded it was a very important decision for them to make - perhaps one of the most important decisions of their lives - that our answer was simply, take what time you deem is necessary.

10 It became a matter of fact that from June, 1976 right to October of 1981, before firm, binding decisions were made.

15 Q. All right.

A. So a great passage of time was involved in that particular area.

Q. Can we come over to table D?

A. Table?

20 Q. Table D.

A. Table D.

Q. On page eight point ten.

DR. DUPRE: Just...you are going to come back to C, are you?

25 MR. LASKIN: I invite you to ask your question, Mr. Chairman.

DR. DUPRE: I have got the eighteen who elected to participate, I've got thirty-six who elected not to participate. Then...I bear in mind the cutoff date here is always December 31, 1980 Correct?

(REPORTER'S NOTE: No audible response.)

30 DR. DUPRE: As of December 31, 1980, there was



DR. DUPRE: (cont'd.) another sixteen who were undecided, correct?

THE WITNESS: Correct.

DR. DUPRE: Now, there are ten deceased as of when, December 31, 1980?

THE WITNESS: December 31, 1980.

DR. DUPRE: And these are ten over and above the four who are mentioned who were part of the thirteen under B?

THE WITNESS: That's correct.

DR. DUPRE: And these are ten people, therefore, who would have been deceased between May 13, 1980 and December 31, 1980?

THE WITNESS: I would say from...yes.

No, let me correct that statement, if I may.

When these statistics were compiled, we did these basically for internal use because our prime concern was to show the number of those who still remained in risk areas, as opposed to the total number of workers interviewed at the time of the inception of the program.

These statistics were compiled on a yearly basis, covering the years 1976, 1977, 1978, 1979 through to the end of December, 1980.

Parts of this table would therefore convey a carryover, if you wish, of information from prior years.

Our concern in the compilation of these reports was, as I have said, to show very clearly and distinctly where we stood on a year-to-year basis.

The four, for example, who are since deceased, that I have mentioned in table B, comprised statistical returns that were made at the beginning of 1976/77, whereas we look at now in table six...I beg your pardon, Table C six, where ten are shown as deceased, these ten could have been from periods





THE WITNESS: (cont'd.) shortly beyond the time that the first return was compiled, the first return in this particular case being for the period ending 1976.

MR. LASKIN: Q. But you've got...you start out with eighty eligible people and the statistics try to account, in differing ways, for those eighty people, so that in category C, on the face of it, it appears to me that ten of those eighty people were deceased as at December 31, 1980, and relating that back to table B, I had thought that of those ten, four were in the category of having never been interviewed by the team and six were in the category of persons who were interviewed, but deceased.

Isn't..is that not accurate?

THE WITNESS: A. Yes, that would be an accurate statement.

DR. DUPRE: Can I come at it another way? The constant number here...by constant I mean it appears A, B, C and may go on to the other side of the table yet...the constant number here is always eighty, and the eighty again, as I understand it, is equal to the number of employees who, at the time the program was started, were asbestotics or pre-asbestotic in accordance with the AFDE guideline, and that eighty, as of the date the program started, would be as of May 13, 1976?

THE WITNESS: Correct.

DR. DUPRE: Now. I follow the breakdown that's in A. Then I go to B, and again my total is going to be eighty and I've got sixty-seven interviewed by December 31, 1980, plus thirteen not interviewed as of December 31, 1980 - that equals eighty, and I think that we have established on the basis of your testimony this morning that the thirteen breaks down as follows: four deceased, six interviewed after December 31st who decided to participate, and then three who decided not to participate?



THE WITNESS: Correct.

DR. DUPRE: Great.

5 Now, when I go to C, I guess the first question that comes to my mind is this: Since C is equal to eighty, the breakdown in C must include the thirteen who were not interviewed as of December 13, 1980. Correct?

10 THE WITNESS: I would agree on the surface that that would be reasonable to assume, but again, our prime concern in dealing with C was, the direct issues here were participation versus nonparticipation.

DR. DUPRE: Okay, but...

DR. MUSTARD: Can I...?

DR. DUPRE: If you please, Dr. Mustard.

15 DR. MUSTARD: I have been taking your answer as saying that the thirteen are in C. Can you tell us what category... if that's true...what categorization the thirteen are listed under in C?

Are they listed under the total undecided? Is that where they are?

20 THE WITNESS: No, Dr. Mustard. I didn't feel in compiling section C, I wasn't giving cognizance to that particular issue, as has been expressed. I was primarily concerned with, you know, who has elected to participate, who has not elected to participate, as opposed to those who were totally undecided at the time.

25 DR. MUSTARD: So the breakdown that you gave us for B, of four deaths, then, if I interpret it correctly, those four deaths would be the ten deceased under category C, and the six...I think that's right...six who decided to participate would be in the eighteen who elected to participate, and then the three deciding not to participate would be under the total electing not to participate, is that correct? Is that the

30





DR. MUSTARD: (cont'd.) right assumption then?

THE WITNESS: Would you mind repeating that?

DR. MUSTARD: All right.

You have six of the thirteen who decided ultimately to participate, and therefore they presumably are in C one, they are part of the total of eighteen.

You have three who decided not to participate, and they would be included in the total for C two...total electing not to participate...and you have the four deaths, and they would be included in the six who are deceased who are part of the ten.

THE WITNESS: Yes.

DR. MUSTARD: Is that the correct assumption?

THE WITNESS: I would agree.

DR. DUPRE: Okay. So that means that if that is correct, that means that C is really exempt from the qualification in the title of the table, which is 'as of December 31, 1980'. The figures in C, if Dr. Mustard reconstructs them correctly, must be the figures as of a later date. Is that right?

THE WITNESS: Well, these were figures of later date.

DR. DUPRE: Oh, good.

THE WITNESS: As I say...

DR. DUPRE: That helps to solve the puzzle.

THE WITNESS: ...each year the picture changed.

DR. DUPRE: Okay. So the figures in C would be as of what date? It's not as of December...

THE WITNESS: We are looking at a period...a general picture for the period January 1st to December 31, 1980. In other words, this is basically a yearly return for 1980.

MR. LASKIN: Q. Yes, but if that's true...can we



Q. (cont'd.) just go back to table B?

A. Table B?

Q. Right. And you gave us a subsequent breakdown for the thirteen persons not interviewed. You gave the Chairman, in answer to his question, a breakdown as to those thirteen persons not interviewed, and you indicated four deaths, six persons subsequently agreeing to participate in the program, three persons not?

A. But let me qualify...

Q. But subsequent to December 31, 1980?

A. Yes, indeed.

Q. All right.

A. And the six persons, let me be very specific, the six persons that we make reference to there did not make a firm, final decision until October 12, 1981.

Q. I appreciate that, right. Past December 31, 1980?

A. Yes.

Q. Yes. All right.

So that if we come to table C, for which you say the cutoff point is December 31, 1980, I think ultimately the problem that we are having is that you have got a category 'total electing not to participate', and you've got a category 'total electing to participate' and 'total undecided'.

Where do we slot in the thirteen people...or where do we slot in the nine people who were alive, but not interviewed as at December 31, 1980? What category do they get slotted into in table C?

A. I would have to say 'undecided'. I wouldn't make a firm statement and say electing not to participate.

Q. That's what we are trying to get at. At least that's what I was trying to get at.

So those nine persons who weren't interviewed, but





Q. (cont'd.) who were alive at December 31, 1980, we would find in the category C three, 'undecided'?

A. Correct.

DR. DUPRE: If that is where those nine are to be found, counsel, what I fail to understand is the ten who are deceased.

MR. LASKIN: Q. Mr. Pearce, and correct me if I'm wrong, but I took the ten to be deceased to be broken down as four who were never interviewed during the period, and six who had been interviewed but had passed away.

THE WITNESS: A. That is correct.

DR. DUPRE: By December 31...

THE WITNESS: 1980.

MR. LASKIN: 1980.

DR. DUPRE: So a total of ten individuals who were part of the original eighty, and who were alive on May 13, 1980...

MR. LASKIN: 1976.

DR. DUPRE: Sorry. And who were alive on May 13, 1976, had died as of December 31, 1980?

THE WITNESS: Correct.

DR. DUPRE: A total of ten of the eighty who were alive on May 13th, were deceased by December 31, 1980... May 13, 1976 to December 31, 1980.

Of those ten, six had been interviewed, four had not?

THE WITNESS: Correct.

DR. DUPRE: Okay. And of course, as for the six who had been interviewed but were deceased by December 31, 1980, some may have elected to participate, some may have elected not to participate, and some may have been undecided?



THE WITNESS: That is correct.

DR. DUPRE: Okay. I think I understand, counsel.

5 Do you understand, Dr. Mustard? Do you think you understand, Dr. Mustard?

DR. MUSTARD: I'll leave it where it stands at this point.

10 MR. LASKIN: Well, had, to your knowledge, any of the six elected to participate in the program, and then passed away before being able to participate in the program?

THE WITNESS: A. I can think of one case, at the moment, that had elected to participate and later passed away.

15 Q. Of the eighteen who did elect to participate, do you have any breakdown as to how many had asbestosis, as opposed to how many had the asbestos fiber dust effect?

A. These, again, these facts can be produced.

20 Q. Of the ten who deceased, do we have any information one way or the other as to what their cause of death was?

A. We do.

25 Q. Do you know how many, in respect of how many deaths there were survivor benefits allowed, or putting it differently, how many of their deaths results in compensation payments being made?

A. As my memory serves me, it was a high number of survivor benefits paid in those cases.

30 Q. In those cases?

A. Yes.

Q. I take it you can get us that information?

A. Yes.

Q. All right. Can we go to table D?

A. Table D?

Q. Yes. Page eight point ten.





5 Q. (cont'd.) Now, I'm a little confused by the first number...the total number who did not qualify as not in hazardous employment at the time of team interviews.

A. What we are saying there is simply that from the date we commenced team interviews - June, 1976 - of the eighty people who would have been eligible for team interviews, of that total eighty we deemed forty-eight were not actually employed in the risk or hazardous area of the plant.

10 Q. Does that mean they had moved from transite pipe or erection and maintenance, from the time of the commencement of the program?

15 A. No. It simply means that they could have, at that time, been employed in other sections of the plant. No, it wasn't a question of moving. They were already employed in other sections of the plant. It could have been fiber glass, it could have been thermal twelve, it could have been receiving/shipping, the garage and so on.

20 Q. Then the eighty persons, the initial eighty persons were persons at J-M generally who had either asbestosis or the asbestos fiber dust effect?

A. Yes.

25 Q. They weren't just...see, and it may be my confusion, but I had understood your original evidence to be that these eighty persons were persons who had either asbestosis or AFDE, and were employed as at May, 1976 in the transite pipe section or the erection and maintenance section.

DR. DUPRE: That is my understanding of the testimony, too.

THE WITNESS: All right.

30 MR. LASKIN: Q. Is our mutual understanding accurate or inaccurate?

THE WITNESS: A. At the very beginning, let me



5 Q. (cont'd.) say this, at the very beginning, June of 1976, when the nominal roll had been set up for the express purpose of conducting team interviews, we had concluded that the risk areas of the plant would be confined, as I said, to transite pipe manufacturing and the erection and repair divisions of the plant.

I believe earlier testimonies given by Dr. Stewart bore out that...

10 Q. We accept all that. I think what we are trying to isolate is, where did these eighty people come from? Were they just in those two sections?

15 A. No. There were others...there were people... workers, I should say, that were presented to us, as I say, who were certified asbestotic of AFDE, who were employees of Johns-Manville, working at the plant.

20 Q. Period? Ah, and then you...I see. So that the eighty originally were all of the persons presented to you who were employed at Johns-Manville, who had either asbestosis or AFDE?

A. That is correct.

25 Q. And you then had to break down that figure to determine which of those eighty were in the transite pipe or the erection and repair sections?

A. True.

30 Q. And what you found were that only thirty-two of the eighty were in fact in the transite pipe or erection and repair section?

A. That is correct.

Q. So that those thirty-two, upon your criteria, the Board's criteria, it was really only thirty-two persons who were essentially eligible for this program?

A. Expressed in terms of those who did qualify, yes.



5 Q. Yes. I mean, you had to meet, as I understand your evidence, in order to qualify for the program you had to meet two criteria - number one, you had to have asbestosis or AFDE, and number two, you had to work in transite pipe or E and R?

A. Well, if I may, I would prefer to enumerate them in terms of one, you had to be in risk. That was the prime criteria. And then two, asbestotic, and three, AFDE.

10 Q. Okay. All right. Using your criteria, what you come up with is thirty-two persons?

A. Correct.

Q. So that when you look at the number who actually participated, in fact, do I take it, that eighteen of those thirty-two participated in the program?

15 A. That would be right.

Q. And that's clear from table E, but if we look at table E, the figure 'total number who qualified - thirty-two', 'total of those who refused the program - fourteen', 'those who participated in the program - eighteen'? Correct?

A. Right.

20 DR. DUPRE: Counsel, not to muddy the issue, I could perhaps explain my confusion and I think, you know, that you have just straightened me out, but you have straightened me out only if I really ignore the words that are used under table C, because, you see, when I see under number two 'total electing not to participate', I assume, of course, that very  
25 action verb electing means that the individual had the choice to participate or not to participate.

30 Of course it is now being established that there were only thirty-two who could have qualified to start off with, and that makes it hardly possible for thirty-six to be in a position to elect - that is to say, choose - whether or not to participate in the program, because table D makes it clear to





DR. DUPRE: (cont'd.) me that there would have only been thirty-two deemed eligible for the program, of whom, if we go down to E, fourteen, if I may now use the term 'elect', elected not to participate.

MR. LASKIN: I think what we need some clarification of, Mr. Pearce, is the second figure in table E - the total number who refused the program outright, being twenty-two...but twenty-two of forty-eight who didn't qualify in the first place.

THE WITNESS: A. Again, the only comment that I can offer is that we are looking...and basically working from... a total figure of eighty, and as I attempted to explain earlier, the format that was applied here in this statistical return, which was primarily for our own internal use to establish exactly what had happened to this group of eighty from year to year, so that I was always cognizant of the need to show identically from year to year what had happened to that number eighty.

Q. I understand that. But I think what I'm having trouble with, and I think I'm just putting the Chairman's question a little differently, in table E you have got total number who did not qualify - forty-eight.

A. Mmm-hmm.

Q. But you then take a subset of that forty-eight and identify them as persons who refused the program outright - being twenty-two. But if they didn't qualify for the program in the first place, why do you...what's the value of listing a refusal?

A. We simply wanted to have some data before us to be mindful of the...as the subtitle would convey..the acceptance versus the refusals of that group of eighty.

Q. Well, does that mean that the other twenty-six of the forty-eight would have wanted to go in the program? Does that mean that twenty-six of the forty-eight would have wanted



Q. (cont'd.) to go on the program and could not go on the program?

5 A. Again, that would be a difficult question to answer, because as I have said earlier...

Q. ...or were undecided?

10 A. True, thank you. Many of these workers took an extremely long period of time to deliberate a firm and decisive decision in this whole thing, and it was hard to put them into any particular category.

Q. You went out and interviewed these people, these eighty people...or sixty-seven of the eighty...and regardless of where they were, you discovered their reaction to the program, I take it?

15 A. Yes.

Q. And you catalogued those persons' reactions to the program?

20 A. Let me, if I may, explain. Our team interviews were conducted on neutral grounds, if you wish. We selected the facility of a motel in close proximity to the plant. We felt it would be much better suited to that purpose.

25 Then following these team interviews, I attended the plant on a regular ongoing basis and frequently I would be approached by an individual...it could be by a union representative, it could be by a member of the plant management...in terms of adjusting or looking at any individual case.

30 In other words, this was an ongoing operation..

Q. I appreciate that.

A. ...and figures were very, very flexible and subject to change quite rapidly.

Q. I appreciate that.

35 A. I would like to also add, when transite pipe closed down its operation completely on May 22, I believe it was, 1980, we looked at that group of people again and we elected





5 A. (cont'd.) to include any where it could be shown were encountering difficulty for medical reasons, who had been absorbed by the plant in other operating divisions of the company, so that in fact we were waiving the requirement at that time for being at risk, in order to aid any of these workers.

So here again, this would add, if I may, to the confusion in attempting to compile a reasonable set of figures that would convey a clear, concise picture of our operations there.

10 MR. EDWARDS: Could I interject for one moment, Mr. Chairman?

DR. DUPRE: Please.

15 MR. EDWARDS: I understand that there may be tables which go back on an annual basis from the 1976 period, and that these tables would probably reflect different figures which might assist in explaining the confusion which seems to have developed here.

20 Perhaps if I direct a question to Mr. Pearce to ascertain whether those tables are in fact in existence and whether they can be produced, I think it would assist the Commission.

DR. DUPRE: Fine.

MR. EDWARDS: Do you know, Mr. Pearce, whether those tables are in existence?

25 THE WITNESS: Yes. Those figures, Mr. Edwards, could be produced.

MR. EDWARDS: Would I be correct in assuming that the figures would be different on an annual basis?

THE WITNESS: There would be variables noted, yes. I think, if I may say, the marked differences would have taken place at the beginning of 1981 to the present time.

30 MR. LASKIN: Q. Are the figures here? Do you have the breakdown here? The year-by-year breakdown?



5 THE WITNESS: A. No, I don't. I'm looking to see if I have...if I may, and I think possibly with the Commission's permission, this may convey or show convincingly some of the problems encountered, which would, I suppose, almost make the figures that we are quoting or looking at in Professor Barth's report as being somewhat redundant.

10 In other words, I did a return, looking at this, on March 26, 1982.

15 Q. We are going to come to that.

A. All right.

20 Q. But can we just do our best to struggle through the rest of this table so that we at least understand as much about it as we can?

25 DR. DUPRE: I think that's useful, counsel, because we are prodding it and there are a few soft spots that have already become apparent, but may be remediable with...so why don't we just continue through this table for the moment and see if we've got any other problems.

30 MR. LASKIN: Q. Can I ask you this, Mr. Pearce, because it might help me on table E...when you went out to interview, when the team went out to interview these people, did you know in what section of the plant they worked?

THE WITNESS: A. Yes.

Q. You did?

35 A. Yes. At the early stages...at the early stages when we were interviewing...

40 Q. I guess my difficulty then is, if you knew that and you knew that certain persons didn't qualify for your program ultimately because they were not in transite pipe or E and R, why did you still interview them?

45 A. At the very beginning...and again I go back to what I've said earlier...we had identified, if I may go back



5 A. (cont'd.) and look at table B, 'total interviewed by the team - sixty-seven. A nominal roll had been compiled of those to be seen by the team.

Now, I'm going right back in time to the early stages of development...

Q. I understand that.

10 A. We did not, at the initial time of interview, have actual dust counts provided to us by the ministry. In those early stages we took great care to tell each worker so interviewed that he met the criteria for entry to the program insofar as being either asbestotic or AFDE is concerned, but this would be subject further to confirmation by the procurement of the awaited dust reports.

15 Q. Now I think I'm beginning to understand this, but was the additional criteria of having to work in transite pipe or E and R something that came after your initial interviews?

A. That's correct.

Q. That makes the statistics a little more intelligible.

20 DR. DUPRE: Can we maybe try to ascertain the following: What was the time - month if not day - what was the month when, presumably on the basis of the exposure data, the requirement for being either in transite pipe or in erection and maintenance adopted?

25 THE WITNESS: Well, that was initially from the very beginning.

MR. LASKIN: I see.

DR. DUPRE: From the very beginning you mean as of May, 1976?

30 THE WITNESS: The program content was agreed that a program for asbestos workers at the plant would commence on January...sorry, May 13th, 1976. We did not commence team





THE WITNESS: (cont'd.) interviews until June of 1976.

5 DR. DUPRE: I understand that.

I also, I think, understand now, on the basis of your testimony, that at the time you were conducting the interviews that began in June of 1976, that at that time the interview team had identified for the purpose of interviews anybody who was an asbestotic or who had an AFDE condition, regardless of where they worked in the plant?

10 THE WITNESS: Yes.

DR. DUPRE: Okay. But as of May 13th, it was already known that you had to be in transite pipe or in erection and maintenance, to qualify?

15 THE WITNESS: No, if I may say, the relation to the date May 13, 1976, was simply a general announcement to the mass media that a program would be made available for the workers at Johns-Manville.

DR. DUPRE: Oh, I see. So then May 13th is not all that significant?

20 THE WITNESS: Only that we, following that announcement, we used that date as the commencement of our program there.

25 In other words, we were saying very clearly if a worker in transite pipe who was interviewed by the team in June of 1976, was in fact working in transite pipe and the subsequent receipt of dust readings had established this, then he met then all parts of the criteria and we therefore admitted him to the program.

30 If, on the other hand, a worker had a rated disability for asbestosis and was not working in the risk area, we did not admit him to the special program.

MR. LASKIN: Q. But you interviewed him?



5 THE WITNESS: A. Yes. Some of those people could well have been interviewed at that time simply because, as I have said, in the early stages whereas we had had meetings in an attempt to designate safe versus unsafe work areas of the plant, this was still to be confirmed and contingent upon receipt of official dust readings from the ministry.

10 Q. So that you went out and interviewed a number of persons who, as it turned out when you got all of this confirmations about readings, turned out couldn't qualify for the program?

A. There could well have been a number who didn't, but then again, to...and I don't wish to add...

15 DR. DUPRE: But I understand that number was forty-eight!

20 THE WITNESS: I don't wish to add to the confusion, but let me just say this in order to qualify it: That a number of those people who quite well may have been interviewed were nevertheless undecided in their own thinking as to whether they would actually participate in the program, and here again it became a question of where you categorize these people.

25 DR. DUPRE: Maybe we had better do what I advised us to do, which we promptly didn't do, including myself, and figure out if we have any more questions on the balance of this table.

MR. LASKIN: All right.

DR. DUPRE: Then we can perhaps consider, counsel, what in the way of quantitative analysis should be done next.

MR. LASKIN: Fair enough, Mr. Chairman.

30 MR. LASKIN: Q. Can you just, by way of clarification, tell me what this asterisk 'referred by third party interest' means? Or do you know?





THE WITNESS: A. I'm afraid I can't answer that question. I don't know.

Q. It may be Professor Barth's asterisk rather than yours.

A. I'm not familiar with it.

Q. Okay. All right. Can you...could you help us with the final part of this table, total active caseload, and is this a caseload active as at December 31, 1980?

A. Yes.

Q. Okay. What are we looking at here in number one - out of exposure?

A. We are looking at thirty-three individual cases which we registered with my division, who were not employed in exposure at the plant.

Q. Thirty-three of the original eighty?

A. No. That particular active caseload there were not necessarily confined to that group of eighty. These were cases that could conceivably have come and asked for assistance, whereby a certain file was created to enable us to look at this.

Q. These were thirty-three people who you were dealing with in respect of rehabilitation assistance?

A. At some stage or other, yes.

The criteria that we observed in the rehabilitation division is to create the necessary documents and then to look at the feasibility of the rendering of rehabilitation services, whether it would fall within our regular programs or the special assistance programs.

Q. Okay. Well, part of these thirty-three might have been in your regular assistance program?

A. They could have been, yes.

Q. I see.



5 Q. (cont'd.) The figure, the in exposure, what does that mean? I take it there is nil in exposure because the transite pipe section wasn't operating as of December 31, 1980?

A. That's correct.

10 Q. Okay. Now, what is point two on this total active caseload...out of exposure and receiving TPD - total partial disability - or pension or a combination?

15 A. That was to indicate that we had eighteen workers who had been accepted into the special rehabilitation assistance program. Of that eighteen, a number of them could have been receiving a pension, they could have been receiving what is termed temporary partial disability payments, or a combination of temporary partial disability payment and pension.

20 DR. DUPRE: May I ask, Mr. Pearce, does that eighteen, or is that eighteen in two A, one and the same as the eighteen that appears in table C, number one - total electing to participate, eighteen?

THE WITNESS: Yes, sir.

25 MR. LASKIN: Q. And is the eighteen part of the thirty-three? Part of your thirty-three active caseload?

THE WITNESS: A. Again, we were looking in broad terms of reference to the total eighty that we worked from, all the way down.

We were accounting from a total eighty.

30 Q. Is the thirty-three, then, part of the eighty, in paragraph one under active caseload?

A. Part of them could be.

Q. Then you've got paragraph three, 'on training', and you've got three formally on training, seven training on the job?

A. Correct.

Q. And are those part of the eighteen?



A. They are part of the eighteen.

Q. Is the other part of the eighteen the eight who are off due to noncompensable reasons?

A. Yes.

Q. Is that the breakdown of the eighteen?

A. Yes.

Q. We've got eight off due to noncompensable reasons, three on formal training and seven in training on the job?

A. That's right.

Q. Okay.

DR. DUPRE: The eight cannot be part of the eighteen, because I'm following the percentages column on the righthand side.

Do you see my problem, counsel?

MR. LASKIN: Yes, I see your problem. It was my problem, too, Mr. Chairman.

DR. DUPRE: But at that point, if I'm following the percentage table on the righthand side, the three who are on formal training, the seven who are in training on the job, and the three who are relocating are also not part of the eighteen. Correct?

MR. EDWARDS: Mr. Chairman, perhaps I could just interject. The percentages, even to my mathematical eye, would appear to add up to more than a hundred percent.

DR. DUPRE: Oh, thank you, Mr. Edwards.

MR. EDWARDS: And I would also point out that the percentages would appear to have been put together by Professor Barth, and not by Mr. Pearce.

DR. DUPRE: Okay. That may be a most helpful comment. So if that were so, I will ignore the percentages.

That permits the three and the seven to be part





5 DR. DUPRE: (cont'd.) of the eighteen, it permits the three who are relocating to be part of the eighteen... at least because that's a total of thirteen...which, of course, leaves five remaining, but that number five is of course different from the eight who are off due to noncompensable reasons.

I think, counsel, that, you know, we've gone through this table, we have probed it in terms of some few little problems that we have with it.

10 I wonder if this perhaps might not be an appropriate moment to take a break?

MR. LASKIN: By all means.

Ten minutes? Fifteen minutes?

DR. DUPRE: Ten or fifteen minutes.

15 THE COMMISSION RECESSED

THE COMMISSION RESUMED

20 DR. DUPRE: Well, the Commission has conferred during the break, and the first thing I want to do, Mr. Pearce, is express to you our gratitude for trying so very hard to educate us on the quantitative side of the program.

25 It appears to the Commission that both the further questions that the Commission and counsel may have, and for that matter the questions that other counsel may have, would greatly benefit from some additional homework, if that is possible, on the statistical data concerning the program.

30 Mr. Laskin will certainly be liaising with Mr. Edwards and/or Mr. Lederer on this subject, and what we would propose is that we invite you to return, Mr. Pearce, in August, at some scheduled date to be arranged, and that for



DR. DUPRE: (cont'd.) the moment we leave the rehabilitation program for further reflection on our part, until that time.

Now, that leaves the business of tomorrow's agenda, counsel, and as I understand it Dr. McCracken will be with us tomorrow morning.

MR. LASKIN: That's my understanding from Mr. Edwards, Mr. Chairman.

MR. EDWARDS: That's my understanding, too, Mr. Chairman.

DR. DUPRE: Good.

Well, may I then, propose that the Commission rise until nine a.m. tomorrow morning.

MR. LASKIN: Fine.

MR. STARKMAN: Mr. Chairman, I understand that there is cross-examination of Mr. MacDonald's yet to be completed. I was just wondering if it would be possible to do that this afternoon, or whether...

MR. LASKIN: We are going to try and do that tomorrow afternoon.

MR. EDWARDS: I understand, Mr. Chairman, that Mr. MacDonald's schedule doesn't permit him to become available until two o'clock tomorrow afternoon.

DR. DUPRE: Something like that was conveyed to me this morning, as well, so we will try to have Dr. McCracken... we will definitely try to complete Dr. McCracken tomorrow, whatever transpires, and if possible, shoehorn Mr. MacDonald into the afternoon.

If not possible, Mr. MacDonald, of course, will carry over into August.

MR. LASKIN: I think we should do our best, if we can, Mr. Chairman, to complete Mr. MacDonald tomorrow,





- 37 -

MR. LASKIN: (cont'd.) because Mr. McCombie, and it's really his cross-examination which remains, he has some personal difficulties in that period in August when we have tentatively set aside hearings.

DR. DUPRE: As usual, of course, we will be in the hands of all our counsel in terms of how the pace of tomorrow's business proceeds, but will certainly try to touch all the bases.

Okay?

MR. LASKIN: Excellent.

DR. DUPRE: Thank you all very much.

-----  
THE INQUIRY ADJOURNED

THE FOREGOING WAS PREPARED  
FROM THE TAPED RECORDINGS  
OF THE INQUIRY PROCEEDINGS

Edwina Macht  
EDWINA MACHT







